

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

LAURA KATHERINE McBEE, )  
v. )  
Plaintiff, )  
)  
TENNESSEE VALLEY AUTHORITY; )  
BOARD OF DIRECTORS OF THE )  
TENNESSEE VALLEY AUTHORITY )  
BILL BAXTER, Chairman, and )  
SKILA HARRIS, Director, )  
In their official capacities, )  
Defendants. )  
No. 3:05-CV-561  
(VARLAN/GUYTON)

## **MEMORANDUM AND ORDER**

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and by the Orders [Docs. 23, 26, 33] of the Honorable Thomas A. Varlan, United States District Judge, for disposition of the following motions: Plaintiff's Rule 56(F) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment [Doc. 17], Defendants' Motion for Extension of Time to Take Discovery Necessary for Summary Judgment Reply [Doc. 24], Defendants' Motion for Extension of Time to File Reply [Doc. 29], Plaintiff's first Motion to Compel [Doc. 20], Plaintiff's Notice of Withdraw of her Motion to Compel [Doc. 25], and Plaintiff's second Motion to Compel [Doc. 30]. The undersigned heard oral argument on these motions on December 19, 2006.

## **I. BACKGROUND**

This case was brought under the Age Discrimination in Employment Act, 29 U.S.C. § 633a (2000). A Scheduling Order was entered by this Court on June 5, 2006 [Doc. 9]. In that Order, the trial date was set for March 6, 2007. Accordingly, the discovery cutoff date was set for December 6, 2006.

## **II. MOTIONS FOR EXTENSION OF TIME**

### **A. Plaintiff's Rule 56(f) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment**

On November 29, 2006, Plaintiff filed a Rule 56(f) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment [Doc. 17]. On November 30, 2006, Defendants filed a brief [Doc. 18] in opposition of said motion. Plaintiff requested additional time to respond to Defendants' Motion for Summary Judgment, citing the need to depose Kathy Hodges and to receive requested documents. During oral argument, Plaintiff's counsel informed the Court that Hodges's deposition transcript is no longer required, and the Plaintiff can file an adequate response to Defendants' Motion for Summary Judgment [Doc. 10].

This Court finds no prejudice would inure to Defendants if Plaintiffs were granted an extension, as Defendants also have requested an extension of time. [Doc. 27]. Accordingly, this Court finds good cause has been shown to **GRANT in part** Plaintiff's Rule 56(f) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment [Doc. 17]. Such extension is not contingent upon receipt of Hodges's deposition transcript, but rather Plaintiff has up to and including December 22, 2006, to file her response to Defendants' Motion for Summary Judgment [Doc. 10].

**B. Defendants' Motion for Extension of Time to File Reply**

On December 8, 2006, Defendants filed a Motion for Extension of Time to File Reply [Doc. 29], in response to Plaintiff's Rule 56(f) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment [Doc. 17]. Defendants argue they must depose Judy Santos before they are able to reply to Plaintiff's response to Defendants' Motion for Summary Judgment [Doc. 10]. As Plaintiff was granted an extension of time to file her response and discovery extensions are set forth below, this Court finds good cause has been shown to allow Defendants an extension of time to file a reply. Accordingly, Defendants' Motion for Extension of Time to File Reply [Doc. 29] is **GRANTED**, and Defendants may file a reply up to and including January 17, 2007.

**C. Defendants' Motion for Extension of Time to Take Discovery Necessary for Summary Judgment Reply**

On December 6, 2006, Defendants filed a Motion for Extension of Time to Take Discovery Necessary for Summary Judgment Reply [Doc. 24]. Plaintiff filed a response to said motion on December 7, 2006 [Doc. 27]. Defendants requested an extension until January 5, 2007,<sup>1</sup> to allow time for the deposition of Santos. Plaintiff, in her response [Doc. 27], cited no objection to extending the date to allow for the deposition of Santos. This Court finds good cause has been shown to **GRANT** Defendants' Motion for Extension of Time to Take Discovery Necessary for Summary Judgment Reply [Doc. 24]. Accordingly, discovery has been extended until January 5, 2007, for the purpose of deposing Santos.

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<sup>1</sup>Defendants' Motion actually requested an extension until January 5, 2006. As the motion was filed December 6, 2006, this Court assumes the date of 2006 to be a typographical error and has read Defendants' Motion as requesting an extension until January 5, 2007.

#### D. Resulting Schedule

In light of both parties' motions for extensions of time [Docs. 17, 24, 29], a few provisions of the Scheduling Order [Doc. 9] must be modified. Provision 4(h) provided for all discovery to be completed ninety days before trial. The new discovery cutoff deadline is January 5, 2007. Plaintiff's Response to Defendants' Motion for Summary Judgment is due no later than December 22, 2006, and Defendants' Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment is due no later than January 17, 2007. Additionally, as will be set forth below, Plaintiff may file a reply brief to Defendants' Response to Plaintiff's Motion to Compel [Doc. 34] up to and including January 8, 2007. All other dates and provisions of the Scheduling Order will remain as stated therein. The trial date remains March 6, 2007.<sup>2</sup> As one final note regarding scheduling and cooperating with opposing counsel, this Court would like to remind counsel to conduct themselves in accordance with this Court's orders, the Federal Rules of Civil Procedure, and the Tennessee Rules of Professional Conduct, applicable to this court by Local Rule 83.6, at every stage in this judicial proceeding.

#### **III. MOTION TO COMPEL**

On December 1, 2006, Plaintiff filed a Motion to Compel [Doc. 20]. On December 6, 2006, Plaintiff filed a Notice of Withdrawal of her Motion to Compel [Doc. 25] based upon mootness. Accordingly, Plaintiff's Notice of Withdrawal of her Motion to Compel [Doc. 25] is **NOTED** and Plaintiff's Motion to Compel [Doc. 20] is **DENIED as moot**.

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<sup>2</sup> Plaintiff's Counsel noted in her affidavit attached to Plaintiff's Rule 56(f) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment [Doc. 17] that Plaintiff and Defendants have unofficially rescheduled the trial date for July 30, 2007. As no motion to continue the trial has been referred to the undersigned, this Court will not alter the scheduled trial date.

On December 8, 2006, Plaintiff filed another Motion to Compel [Doc. 30]. Defendants filed a Response to Plaintiff's Motion [Doc. 34] on December 18, 2006. Plaintiff, at the hearing, made an oral motion for an extension of time to respond to Defendants' Reply. The Court finds good cause for such an extension and **GRANTS** Plaintiff's oral motion for an extension of time to respond to Defendants' Reply. Accordingly, Plaintiff's reply to Defendants' Response to Plaintiff's Motion [Doc. 34] is due on or before January 8, 2007.

#### **IV. CONCLUSION**

Accordingly, it is ordered that:

- (1) Plaintiff's Rule 56(f) Motion for Additional Time to Respond to Defendants' Motion for Summary Judgment [Doc. 17] is **GRANTED in part**, as described herein;
- (2) Defendants' Motion for Extension of Time to Take Discovery Necessary for Summary Judgment Reply [Doc. 24] is **GRANTED** as further outlined in this Order;
- (3) Plaintiff's Response to Defendants' Motion for Summary Judgment is due no later than **December 22, 2006**;
- (4) Defendants' Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment is due no later than **January 17, 2007**;
- (5) The discovery cutoff is **January 5, 2007**;
- (6) Plaintiff's Notice of Withdrawal of Her Motion to Compel [Doc. 25] is **NOTED**;
- (7) Plaintiff's first Motion to Compel [Doc. 20] is **DENIED as moot**;
- (8) Plaintiff's Oral Motion for an Extension of Time to file a reply brief to Defendants' Response [Doc. 34] is **GRANTED** and said motion is due on or before **January 8, 2007**;
- (9) Plaintiff's second Motion to Compel [Doc. 30] will be ruled on after January 8, 2007, allowing Plaintiff an opportunity to file a reply; and

(10) The trial, as scheduled, will commence on **March 6, 2007**.

**IT IS SO ORDERED.**

ENTER:

s/ H. Bruce Guyton  
United States Magistrate Judge